



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,288	10/25/2001	Robert J. Menendez	7780-T00349	9645
34456 7590 11/19/2008 LARSON NEWMAN ABEL POLANSKY & WHITE, LLP 5914 WEST COURTYARD DRIVE SUITE 200 AUSTIN, TX 78730				
EXAMINER				
THIER, MICHAEL				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
11/19/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/040,288

**Applicant(s)**

MENENDEZ, ROBERT J.

**Examiner**

MICHAEL T. THIER

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/3/2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 10/3/2008 have been fully considered, however they are moot in view of the new grounds of rejection. Please see the following rejection for an explanation on how the newly added limitations are read and rejected with the cited prior art.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9, 12-24, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flick (6,703,946) in view of Rosener et al. (US 2002/0028655).

**Regarding claims 1, 16.** Flick teaches a vehicle comprising a position determination device (42; fig. 2); a subsystem indicator indicating a condition of a subsystem of the vehicle (vehicle device 26, fig. 1); an associated mobile communication device (RCV 29, fig. 2); and a hub (vehicle security controller 27) in permanent communication with a computer (col. 5, ln. 49-64) remote from the vehicle (column 5 lines 35-37, i.e. the monitoring station is explained to be remote from the vehicle), the hub communicating with the position determination device, the subsystem indicator, and the mobile communication device (col. 5, ln. 31-53).

However, Flick does not teach that the mobile communications device is mobile with respect to the vehicle or the idea wherein the communication device is operable to communicate with the hub when the communication device is at a location apart from the service vehicle.

Rosener teaches a wireless system built in to a vehicle that allows a user carrying a mobile communications device (such as a cell phone) to connect to the vehicle system using such techniques as Bluetooth discovery. (par. 118) He clearly teaches wherein the communication device is operable to communicate with the hub when the communication device is at a location apart from the service vehicle in par. 118, where he explains that a Bluetooth discovery is made between the phone and the car as the user walks to the car. It is clear from this paragraph that the phone is connected, and in communication with the car (i.e. with a "hub" within the car) when the phone is at a location apart from the vehicle (i.e. the phone is outside and a distance away from the vehicle, thus clearly reading on this limitation). Further see in par. 118,

where it is then stated that "As the user enters the car...", and this comes after the explanation of the Bluetooth discovery between the phone and the car. It is clear that the phone communicates with the vehicle while outside the vehicle, and thus clearly at a location apart from the vehicle. The examiner understands that even a small distance away from the vehicle (i.e. the distance allowed by the short range Bluetooth connection), the phone is still understood to be a "location apart" from the vehicle. This idea that a mobile device can be mobile with respect to the vehicle, and wirelessly connect to the vehicle system, when combined with the Flick reference clearly teaches the limitations claimed.

Therefore it would have been obvious for one of ordinary skill in the art at the time of invention to utilize the teachings of Rosener with the teachings as in Flick. The motivation for doing so would have been to allow for the mobile communications device to go with the user in and out of the vehicle.

**Regarding claims 2, 17.** Flick further teaches the position determination device comprises a GPS receiver (GPS receiver 42, fig. 2).

**Regarding claims 3, 18.** Flick further teaches the subsystem indicator indicates the condition of an ignition of the service vehicle (ignition switch 65, fig. 2).

**Regarding claims 4, 19.** Flick does not teach that the subsystem indicator indicates the condition of an odometer of the vehicle. However, Flick teaches that the subsystem indicator indicates the condition of the ignition, alarm, acceleration, battery, etc (col. 10, ln. 21 to col. 11, ln. 65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Flick, so that the

subsystem can provide information regarding the condition of the odometer in order to keep track how far the vehicle had traveled.

**Regarding claims 5, 20.** Flick further teaches the hub is in wireless communication with a cellular tower (wireless receiver 29, fig. 2, is in wireless communication with monitoring station 30, fig. 1; col. 12, ln. 15-25).

**Regarding claims 6-7, 21-22.** Flick further teaches the central computer communicates with an Internet site (col. 1, ln. 56 to col. 2, ln. 4; col. 13, ln. 1-14, fig. 3).

**Regarding claims 8-9, 23-24.** Flick does not teach the use of general packet radio service (GPRS) and cellular digital packet data (CDPD) protocols. However, these protocols are well known in the wireless art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize GPRS or CDPD advance features since CDPD shares bandwidth with cellular voice traffic. The channel is occupied just for the time it takes to send packets of data. If the channel is subsequently required for voice, the CDPD transmission will "hop" to another vacant channel.

**Regarding claims 12, 27.** Flick further teaches the hub is in wireless communication with a cellular tower (wireless receiver 29, fig. 2, is in wireless communication with monitoring station 30, fig. 1).

**Regarding claims 13-14, 28-29.** Flick does not teach the use of IEEE-802.11 (wireless LAN protocol) and bluetooth (wireless data transmission) protocols are well known in wireless art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Flick teachings, so that it can be

used with IEEE-802.11 (wireless LAN protocol) and bluetooth (wireless data transmission) protocols in order to reduce wiring harness, and simplifying the installation of the LAN. Further, Rosener teaches the idea of a Bluetooth connection between the vehicle and the mobile communications device in par. 118.

**Regarding claims 15, 30.** Flick illustrates in figs. 1-2 that the hub is in wire-line communication with the subsystem indicator. However, wireless hub is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Flick teachings, so that the hub is in wireless communication with the subsystem indicator in order to reduce wiring harness, and simplifying the installation of the tracking system.

5. Claims 10-11, 25-26, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flick (6,703,946) in view of Rosener et al. (US 2002/0028655) in further view of Saunders et al (5,918,172).

**Regarding claims 10-11, 25-26, 31.** Flick teaches a vehicle comprising a position determination device (42; fig. 2); a subsystem indicator indicating a condition of a subsystem of the vehicle (vehicle device 26, fig. 1); an associated mobile communication device (RCV 29, fig. 2); and a hub (vehicle security controller 27) in permanent communication with a computer (col. 5, ln. 49-64), remote from the vehicle (column 5 lines 35-37, i.e. the monitoring station is explained to be remote from the vehicle), the hub communicating with the position determination device, the subsystem indicator, and the mobile communication device (col. 5, ln. 31-53).

However, Flick does not teach that the mobile communications device is mobile with respect to the vehicle, or the idea wherein the communication device is operable to communicate with the hub when the communication device is at a location apart from the service vehicle.

Rosener teaches a wireless system built in to a vehicle that allows a user carrying a mobile communications device (such as a cell phone) to connect to the vehicle system using such techniques as Bluetooth discovery. (par. 118) He clearly teaches wherein the communication device is operable to communicate with the hub when the communication device is at a location apart from the service vehicle in par. 118, where he explains that a Bluetooth discovery is made between the phone and the car as the user walks to the car. It is clear from this paragraph that the phone is connected, and in communication with the car (i.e. with a "hub" within the car) when the phone is at a location apart from the vehicle (i.e. the phone is outside and a distance away from the vehicle, thus clearly reading on this limitation). Further see in par. 118, where it is then stated that "As the user enters the car...", and this comes after the explanation of the Bluetooth discovery between the phone and the car. It is clear that the phone communicates with the vehicle while outside the vehicle, and thus clearly at a location apart from the vehicle. The examiner understands that even a small distance away from the vehicle (i.e. the distance allowed by the short range Bluetooth connection), the phone is still understood to be a "location apart" from the vehicle. This idea that a mobile device can be mobile with respect to the vehicle, and wirelessly



connect to the vehicle system, when combined with the Flick reference clearly teaches the limitations claimed.

Therefore it would have been obvious for one of ordinary skill in the art at the time of invention to utilize the teachings of Rosener with the teachings as in Flick. The motivation for doing so would have been to allow for the mobile communications device to go with the user in and out of the vehicle.

However, Flick and Rosener do not teach that the central computer provides directions to the vehicle to a subsequent destination and traffic data to the vehicle (i.e. directing the service vehicle to a subsequent service call based on information received by the central computer from the hub).

Saunders teaches the central computer provides directions to the vehicle to a subsequent destination and traffic data to the vehicle (col. 3, ln. 24-33; col. 4, ln. 1-9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Saunders into the teachings of Flick and Rosener in order to provides an integrated and efficient technique to deliver a variety of voice and enhanced services to customers.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL T. THIER whose telephone number is (571) 272-2832. The examiner can normally be reached on Monday thru Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Eisen can be reached on (571) 272-7687. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MICHAEL T THIER/  
Examiner, Art Unit 2617  
11/13/08

/Alexander Eisen/

Supervisory Patent Examiner, Art Unit 2617